



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161001

PRELIMINARY RECITALS

Pursuant to a petition filed October 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 23, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's application for FS benefits because she was over the net income limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner's household size is three.
2. On September 23, 2014 Petitioner applied for FS benefits.

3. On September 24, 2014 the agency denied Petitioner's application for FS benefits because Petitioner's net income was over the program net income limits.
4. The agency calculated Petitioner's income at \$1,951.90. This income was entirely from Petitioner's husband social security retirement income. Petitioner's husband also works at [REDACTED] for 20 to 25 hours per week. The agency did not include that income in their calculations.
5. Petitioner's monthly rent is \$316.00. Petitioner is responsible for some utilities.
6. Petitioner is eligible for a medical deduction in the amount of \$35.00.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 2 is \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I have reviewed the agency's calculations and actions in this case. The agency correctly denied Petitioner's application for FS benefits. The agency used an artificially reduced monthly household gross income when determining eligibility. Even with this reduced amount of monthly gross income Petitioner was ineligible for FS benefits. The agency only used Petitioner's husband's social security retirement income. Petitioner's husband also works for [REDACTED] 20 to 25 hours per week. That income was not included when the agency determined Petitioner was ineligible for FS benefits. The agency requested verification of Petitioner's husband's earned income from [REDACTED], but Petitioner never provided that information. This alone is enough to deny Petitioner's application for FS benefits. However, the agency still calculated whether or not Petitioner would be eligible for FS benefits based on a reduced amount of monthly gross income. Even beginning with this artificially low number, Petitioner was ineligible for FS benefits. Had the agency used the correct gross income amount, Petitioner's net income would be further above the program net income limit. If Petitioner's income or expenses change, she can reapply for FS benefits.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's application for FS benefits.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

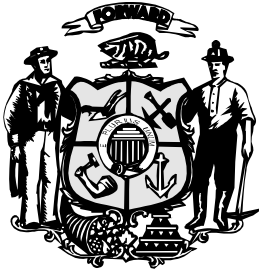
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of October, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 24, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability